ISSN: 2450-8160

Herald pedagogiki. Nauka i Praktyka

wydanie specjalne

Warszawa
2021

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THE INFLUENCE OF DIGITAL MARKETING IN COMPETITION LAW: OVERVIEW

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Abstract. The current materialistic era can indicate us that our world is going to be "techno sphere", dramatically. Digital aspects are entering any system, such as medicine, economy, policy, law and others. Appearing digital atmosphere in economy (for example, Google, Amazon, HUAWEI, Facebook) is being cause to create and learn new law rules in "lex" area, including competition law. Leading jurisdictions are debating whether the nature of data-driven innovation markets and smart technologies, this situation requires re-thinking of how antitrust law applies to digital arsenal. The question: Is this a competition problem or not? There are, we can see, many causes to calculate in this case that especially two analytical tools: competitive law applies the digitalization of economy and anti-competitive behavior. This article focuses on opening the meaning of competition law, multi-sided economy, their combination role in ecosystem, in addition, the role of competition law in legal regulating of digital economy around the world.

Keywords: competitive law, digital economy, enforcement, abuse of dominance, cartels.

Today's world demands, in global situation, to be correct law approach, which can help to regulate not only people's behavior but also markets, monopolies, anti-trust actions and etc.

Thinking about this modification, the article tries to indicate economy field's enigma which is related to digital runs and its influence in competitive law, following.

Starting the paper to open basic notes and their meaning will be much more effective to understand taking into consideration categories.

Competitive law: Competitive law is set of rules, disciplines and judicial decisions maintained by governments relating either to agreements between firms that restrict competition or the concentration or abuse of market power on the part of private firms. [1] Rules and regulations which are not incorporated in one document do not sufficiently contribute efficient business (entrepreneurial) activities [2] Competition law is an exciting area of law, working at the confluence of law and economics, its purpose is to protect the process of competition in a free market economy. Competition is ordinarily a beneficial process, because when firms compete for customers, they are encouraged to produce the best quality products (works or services) at the minimum price, which is good for consumers.

In a world of perfect competition, life is good. Firms can enter and exit markets. Instantly and without cost, products are homogeneous and everyone is perfectly informed. Firms are so numerous that none of them is large enough to influence prices by altering

output and act independently. [3] Around the world, competitive norms turned to control marketing system to work under the law and to set remedies their anti-competition activity. In the European Union (EU), competition law introduced with the 1957 Treaty of Rome. In the twenty first century, digital markets are transforming the economy and this upheaval in the markets has profound repercussions on European competition law as such. [4] The digital economy poses particular challenges to competition law, promoting competitive markets, especially in the fast-growing digital area, is a far-reaching objective for both the legislator and the companies.

Moving from traditional industrial markets to the more complex markets of today's world, with online platforms in their midst, brings along a myriad of challenges for competition policy covering many of its essential components. It is emphasized that relevance of the market definition and the assessment of market power as commonly applied by current practice when dealing with online platforms. Furthermore, the need for new theories of harm that take into account the business law of online platforms has known in this legal arena.

Digital economy: World is turning into new digital sphere and new articles is coming enter in our economy world, one of them, we can say, is digital marketing.

Digital economy (multi-sided) - the scope of circulation of goods sold by a business entity via the Internet, including digital platforms used to ensure interaction between two or more different, but interdependent suppliers, customers or other users in order to make profit for at least one of the parties. [5] Around the world, digital economy attitudes are controlled with competition law (competition legal system) or it is said antitrust law, including in Uzbekistan.

The digital economy created as a central driver to future prosperity - delivering waves of innovation, productive and welfare for consumer. Digital system has also stimulated a shift in market dynamics, paving the way for the emergence of key platforms, networks and the proliferation of multi-sided markets. "Digital markets" which are, companies develop and apply new technologies to existing businesses or create new services using digital capabilities. [6] A truly "digital economy" is one in which businesses from across the industrial spectrum invest in digital capabilities and make the most productive use of them. As digitalization continues to transform the economy, and the line between face-to-face and online businesses further blurs, concepts such as "digital markets" and "digital economy" may become redundant.

Combination: In this situation, we let you to think the reaction of competition law and digital economy, both of them are very tired to be balance marketing system. The legal nature of a digital platform meaning is an unresolved issue in competition and other areas of law, for instance, platforms (these are understood that they are Google, Facebook, Apple's App Store and other such), speaking this category help to understand other digital systems' role in economy and competition.

Digital marketing is digital business or no?

Contemporary competition scrutiny employs the multisided platform model and that

involves distinct but interdependent sets of users interacting with one another via the platform.

Traditional examples of multisided platforms include newspapers, real estate agents and credit card networks. This model has been so successful online that seven of the world's top 10 companies by market capitalization operate digital platforms. [7] Platforms differ in important ways, for example, how they generate income, their size and pro?table side. There are differences between platforms that primarily generate revenue from advertising (usually to fund "free" services to users) and those that generate revenue from transaction-based commission or subscription fees.

The legal characterization of digital platforms can also lead to business uncertainty, if the same business model is characterized in mutually exclusive ways by different enforcers or across jurisdictions. For example, a platform may be considered an employer of platform users on the supply side or a facilitator of a cartel arrangement between those users.An employment relationship between two parties, similar to an agency relationship, excludes the agreement from the application of competition law. [8] Transaction platforms such as Apple's App Store may be considered to be "agents" of their suppliers, intermediating transactions between them and consumers, or as "retailers". Whereas finding the platforms to be agents means that competition law does not apply to aspects of the agreement between suppliers and the platform, determining that they are retailers means that the law does apply. Similarly, judging whether platforms provide an underlying service to consumers or supply a technology service can lead to different outcomes. For instance, "technology transfer ... does not extend to the transactions involving the mere sale or mere lease of goods". [9]

Big data and algorithms enable firms to fine-tune their pricing strategies and predict market trends. Digital platforms usually involve transparent prices and sometimes, algorithms set prices.

Algorithmic pricing can benefit consumers by reducing transaction costs or market frictions. [10] Some business practices involving automated, algorithmic pricing decisions may constitute anticompetitive agreements. Using algorithms is not new or limited to digital businesses, but algorithmic pricing is easier in online settings where data-scraping methods allow for real-time data collection and automatic and frequent price adjustments. [11]

Results: As if competition law controlled ecosystem to be healthy during their runs, it also enforce digital marketing, but there are some conditions that can show us anticompetitive behavior among marketing subjects. One of them, there is digital cartels, may it will be usual competition argument, but can affect our social and economy life, gradually. Aspects of digital business models have raised competition concerns and questions about the ?tness of the existing framework. Although many features of the digital platform business model are not novel, their combination, coupled with the pace of change and the global reach of some market players, is challenging for competition authorities acting alone. In today's world, digital marketing faced with agreements,

cartels, abuse of dominance.

Anticompetitive agreements distort, restrict or eliminate competition through a "concurrence of wills" between undertakings. [12] Competition laws prohibit such agreements, as well as concerted practices, falling short of "agreement". [13] A particular challenge is to establish whether parallel conduct by ?rms in oligopolistic markets results from collusion between the ?rms or is an original response to the market's structure. While the former is prohibited, the competition law approach to the latter is more profitable.

Agreements can be anticompetitive where they entail such practices as ?xing prices between competitors, limiting output or imposing price or other supply conditions on intermediaries.

Some agreements are considered to inherently restrict competition, while others are deemed to restrict competition only if they demonstrably have anticompetitive effects. The agreements differ from each other their legal nature indicators, such as:

Horizontal agreements: agreements among competitors

Digital platforms always involve transparent prices and, sometimes, algorithms set prices. Algorithmic pricing can bring supplement consumers by reducing transaction costs or market frictions. Some business practices involving automated, algorithmic pricing decisions may constitute anticompetitive agreements. Using algorithms is not new or limited to digital businesses, but algorithmic pricing is easier in online settings where data-scraping methods allow for real-time data collection and automatic and frequent price adjustments. A major challenge regarding collusion is to distinguish between ?rms' intelligent and unilateral reactions to market conditions to maximize pro?t and practices that result from cooperating with competitors. The use of algorithms further complicates this issue.

Where an anticompetitive agreement exists and algorithms monitor or enforce that agreement, the application of competition law is relatively straightforward: That computer software rather than humans executed the agreement is irrelevant in establishing an infringement. Algorithmic price-setting may facilitate collusion by simplifying the monitoring and punishment of deviation from a collusive agreement, because transparency and quick price changes are collusion risk factors. [14] Data/algorithmic pricing can also facilitate price discrimination and "personalized pricing which reduces the possibility of collusion by making it will be hard for competitors to observe and detect deviation from a collusive arrangement. Alike this, sophisticated buyers can use algorithms in their purchasing decisions, which can alter the dynamics of their interaction with suppliers the most complex scenario is where pro?t-maximizing algorithms reach a collusive outcome without an explicit agreement between ?rms or instructions from algorithm designers and where ?rms are setting prices unilaterally. The new digital ecosystem has thus seen the rise of new means of anti-competitive conduct, transforming what have so far been traditional competition law infringements. For example: In a 2016 UK case, an online seller, Trod Limited, agreed with one of its competitors, GB Posters, not to

undercut each other's prices for posters and frames sold on Amazon's UK website. The agreement was implemented by using automated re-pricing software, which the parties configured to give effect to the illegal cartel. Trod was fined a total of ?163,371 by the UK national competition authority, while GB Posters received immunity for having reported the cartel. [15]

One view of anticompetitive behavior which "abuse of a dominant position" around the world, require authorities to de?ne the "relevant market" in which the ?rm under investigation competes, assess whether it has "market power" and whether it uses that power to engage in anticompetitive conduct. It is focused that the use of market power by big tech companies - Google, Facebook, Amazon, Apple and Microsoft. However, smaller companies can also be subject to these rules if they are "big" in a "relevant market".

Relevant to abuse of dominance, discrimination can act healthy competition atmosphere. Regarding platforms with a "dual role", which act as an intermediary for third-party suppliers while also supplying products/services on their own platform, issues depended on possible discrimination against third-party suppliers to boost the platform's own sale.

Recently, there has been a stable trend in the country towards an increase in the number of financially insolvent enterprises [16]. The institution of insolvency is one of the most important elements of the market economy, which is designated to stimulate the productive activities of economic entities, to contribute to the liquidation of inefficient organizations [17]

Tying and bundling: Traditionally, these infringements require distinct products/ services, which are supplied as a bundle by a dominant undertaking to market power from the dominant market (e.g. cars) into another market (e.g. antiradar). In digital markets, the limits of different products/services in an "ecosystem" and the degree to which any tie is binding on consumers may cause dif?cult way for competitive assessments.

Approach: The right approach needs to include an assessment of which solutions can best optimize the advantage of digitalization, at the lowest cost. Accordingly, the following recommendations are offered: I. Some aspects of competition law need rethinking. This results from a combination of market features such as strong network effects to competition for the market and monopolistic market structures and multi-sided business models that differ from traditional models regarding value creation, revenue generation and use of data. The business models of technology companies challenge existing categories of anticompetitive conduct. In many digital practices that raise competition concerns, legitimate business justi?cations and ef?ciencies are closely linked to the potential for restricting competition. Existing economic models used to assess competition may fail to capture both the pro-competitive and the anticompetitive effects.

II.Digital literacy is essential for both consumers and business users of digital services for effective competition in digital markets. Empowered users - consumers and businesses - drive companies to compete, innovate and deliver better products and services, users need to understand what is involved when they "choose" to use a given product/service.

Transparency is also necessary, but in the context of data-driven services, transparency without real choice or control is insufferable.

III.Established competition law frameworks appear unwarranted. Competition laws contain broad, open-ended rules and have been applied to a wide range of market practices, including those of technology companies and multisided platforms. Competition authorities have some of the widest-ranging powers and tools of any administrative authority, including powers to break up companies, impose remedies and set substantial ?ne. Whether enforcement is at a complex level is a separate question from whether the law should be changed. Upending established legal frameworks would require robust evidence that the law systematically fails to achieve its aims. This does not appear to be the case with competition law. Proposals to change existing legal standards for proving infringements, for example, by adopting presumptions of unlawfulness for unilateral conduct or lowering the level of judicial review, must be evaluated in the context of the (quasi-)criminal nature of competition law sanctions in many jurisdictions and rule of law requirements. This is particularly pertinent for jurisdictions with administrative enforcement models in which the fact-?nder is also the decision-maker. Also, the lack of consensus, in theory and in practice, as to the competitive assessment of many digital practices cautions against radical changes. Where new rules are created, reliance on ambiguous or underdeveloped concepts should be avoided.

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